

NSC INTERAGENCY TASK FORCE ON THE LAW OF THE SEA

NSC-D/LOS # 477

MEMORANDUM

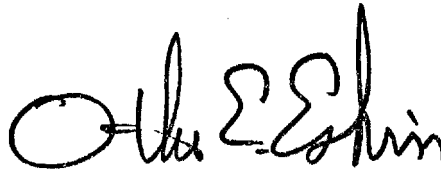
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October 31, 1975

TO : Members of the LOS Executive Group

SUBJECT : Testimony Before the Senate Foreign  
Relations Committee

Attached for your information is the testimony of Under Secretary Carlyle E. Maw and John Norton Moore given at the hearing of the Senate Foreign Relations Committee, Subcommittee on Oceans and International Environment on October 31, 1975.



Otho E. Eskin  
Staff Director

Attachment:

As stated

State Dept. review completed

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TESTIMONY OF  
THE UNDER SECRETARY OF STATE  
FOR SECURITY ASSISTANCE  
CARLYLE E. MAW  
SPECIAL REPRESENTATIVE OF THE PRESIDENT AND  
CHIEF OF THE UNITED STATES DELEGATION  
TO THE THIRD UNITED NATIONS LAW OF THE SEA CONFERENCE  
BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE SUBCOMMITTEE ON  
OCEANS AND INTERNATIONAL ENVIRONMENT  
FRIDAY, OCTOBER 31, 1975

Mr. Chairman and members of the Committee, I am pleased to appear today on behalf of the Executive Branch to testify on S.961, which proposes to extend United States fisheries jurisdiction to 200 miles off our coasts. I am accompanied by John Norton Moore, Chairman of the NSC Interagency Task Force on the Law of the Sea and Deputy Special Representative of the President for the Law of the Sea Conference, and Rozanne Ridgway, Acting Deputy Assistant Secretary of State for Oceans and Fisheries Affairs.

Mr. Chairman, the Administration believes that the proposed 200-mile fisheries legislation could create serious foreign policy problems.

Secretary Kissinger, in an address to the Annual Meeting of the American Bar Association in Montreal on August 11, stated that "unilateral action is both extremely dangerous and incompatible with the thrust of the (Law of the Sea) negotiations....". He added:

"The United States has consistently resisted the unilateral claims of other nations, and others will almost certainly resist ours. Unilateral legislation on our part would almost surely prompt others to assert extreme claims of their own. Our ability to negotiate an acceptable international consensus on the economic zone will be jeopardized. If every state proclaims its own rules of law and seeks to impose them on others, the very basis of international law will be shaken, ultimately to our own detriment."

The Administration is also seriously concerned about the depletion of many fish stocks off our coasts as a result of overfishing. In the long run, we believe that a Law of the Sea Treaty which is accepted by the fishing nations of the world is the best way to conserve fish stocks and to protect our fishing interests. The principal nations fishing off our coasts accept the general consensus at the Law of the Sea Conference in favor of a 200-mile economic resource zone that would include coastal fisheries. They have stated that they would not recognize such a zone created by unilateral action.

I agree with the proponents of S.961 that action must be taken now to halt the depletion of fish stocks off our coasts. Mr. Chairman, the Administration is

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taking that action. I would like to outline for the Committee this morning the measures we have recently taken to reduce overfishing off our coasts and the additional steps we will be taking in the immediate future. These measures have become possible because of the emerging consensus in the Law of the Sea Conference, as I have mentioned.

Secretary Kissinger announced in his American Bar Association speech that we would begin immediately to negotiate new agreements with nations fishing off our coasts to provide a transition to a 200-mile zone. To carry out this program, an interagency group on fisheries negotiations has developed a plan to effectuate a transition to a 200-mile coastal fisheries zone off the U.S. coasts through bilateral and multilateral negotiations as promptly as possible. I would like to emphasize that this plan does not require us to wait for the conclusion of the Law of the Sea Conference. We have at least 11 bilateral fisheries agreements due for renegotiation next year, as well as regular meetings of six multilateral fisheries commissions. In the next few months, we will be renegotiating agreements with Romania, Poland and the Soviet Union.

Most importantly, Mr. Chairman, this plan is based on negotiations, not unilateral action.

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In our negotiations, we intend to accomplish the following objectives within 200 miles of our coasts:

- establish an effective conservation regime based on the best available scientific evidence;
  - create, consistent with such a regime, preferential harvesting rights for U.S. fishermen. This will result in substantially reduced foreign catches since only the surplus will be allocated among foreign fishermen;
  - implement a standardized system for collecting fisheries data from both foreign and domestic fishermen;
  - introduce more effective enforcement procedures;
- and
- implement satisfactory arrangements to resolve gear conflicts and insure adequate foreign compensation to U.S. fishermen in cases of negligence by foreign fishermen.

We expect that most of our fisheries objectives will be accomplished within two years. Mr. Chairman, the central point I wish to make in my testimony this morning is that I believe that under this negotiating plan we can achieve the functional aspects of a 200-mile fishing zone off the coasts of the United States by agreement with the nations concerned. I believe

that we will be more successful dealing in an atmosphere of negotiation rather than in one of confrontation. Consequently, we will achieve our ultimate goal -- conservation of the fisheries stocks -- more rapidly than could be accomplished by 200-mile legislation.

It is fair to ask why this plan can succeed when past negotiations have not been fully successful in protecting the stocks. My answer, as I have indicated, is that the widespread agreement in the Law of the Sea Conference on a 200-mile coastal fisheries zone has produced a new negotiating climate making these negotiations possible. Prior to the development of a consensus on a 200-mile economic zone in the Law of the Sea negotiations, we would not have been able to demand in bilateral negotiations that other nations fishing off our coasts recognize the objectives which we now seek to establish. We believe that it is in the interests of nations fishing off our coasts to cooperate with us in negotiating a transition to an eventual 200-mile zone. However, these same nations may feel obliged to resist, as a matter of principle, a unilateral declaration by the United States of a 200-mile zone, just as we have felt obliged to resist similar claims made by other nations.

The first test of our new negotiating plan occurred at the September meeting of the International Commission for the Northwest Atlantic Fisheries (ICNAF) in Montreal last month. I addressed the opening session of ICNAF and delivered a personal message to the delegates from President Ford. The President said, and I quote:

"It is imperative that the Commission succeed in establishing adequate conservation measures and enforcement procedures to rebuild the important fisheries stocks of the Northwest Atlantic... . For our part, I pledge the full support of the United States to sound fisheries management and conservation practices, based on scientific evidence and implemented within the framework of internationally negotiated agreements."

With your permission, Mr. Chairman, I offer my statement and the statement of President Ford for inclusion in the record.

I am pleased to report, Mr. Chairman, that on September 28, 1975, the seventeen member nations of ICNAF agreed to reduce their total 1976 fishing effort off the U.S. coast from Maine to North Carolina from 850,000 metric tons to 650,000 metric tons. This represents a 23 percent reduction from the 1975 quota and more than a 43 percent reduction from the actual

catch of 1,154,000 metric tons in 1973, when there was no quota. Mr. Chairman, the real significance of this agreement cannot be seen from the numbers alone. Our experts tell us that under these quotas, the principal fish stocks with which the United States is concerned will begin to increase rather than continue to decline in the area from Maine to North Carolina. If these experts are correct, and I hope and sincerely trust they are, we have passed the crisis point and these stocks will at long last be restored.

Two other very significant achievements emerged from the September ICNAF meeting. ICNAF members agreed to a U.S. proposal for closing a large area of George's Bank off New England throughout the year to bottom fishing in order to protect the valuable and seriously depleted yellowtail flounder and haddock. Although the closed area is slightly smaller than the area originally proposed by the United States, it is sufficiently large to provide satisfactory protection for these important stocks.

ICNAF members also approved a U.S. proposed system of national registration for vessels, which will materially assist member governments and international enforcement personnel in monitoring fishing operations throughout the area.



We believe that the decisions taken at ICNAF indicate that other nations fishing off our coasts are now concerned with conserving fisheries resources. With your permission, Mr. Chairman, I offer for the record the report of the U.S. Delegation to the ICNAF meeting.

Mr. Chairman, as we proceed with our negotiations, we are confident that other nations will be prepared to negotiate mutually acceptable arrangements that will permit their continued participation in coastal fisheries. We also believe that the course of bilateral and multilateral negotiations on which we are embarked will permit negotiations on behalf of our shrimp and tuna fleets that unilateral action on our part might preclude.

Mr. Chairman, in your deliberations on S.961, I believe that the essential question for this Committee to consider is whether the rules governing uses of the oceans are to be developed through international negotiation and agreement, or whether such rules are to be established by a pattern of inconsistent national claims. The example set by the United States in the oceans can encourage international cooperation; or it can promote international disorder and conflict.

We are all agreed that we must take energetic action to meet the legitimate, pressing concerns relating to our fishing interests. We believe that the approach to our bilateral and multilateral fisheries negotiations, which I have outlined this morning, will create a system of conservation and enforcement that will protect important United States fisheries resources.

Thank you, Mr. Chairman.